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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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25006	7590	02/22/2005	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C			HWANG, VICTOR KENNY	
PO BOX 7021				
TROY, MI 48007-7021			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/617,996	Applicant(s) TURNBULL ET AL.	
	Examiner Victor K. Hwang	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☒ Claim(s) 3,8 and 13-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>20050217</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20031114</u> . | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 24, 32, 33, 60 and 60'. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "7" shown in Fig. 3C. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not

accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because in Fig. 3E, the reference character "52" having the arrow lead line presumably should be changed to --60--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: on page 6, line 5, "3" presumably should be changed to --3A--.

Appropriate correction is required.

Claim Objections

5. Claims 3, 8 and 13-15 are objected to because of the following informalities:
- claim 3 presumably depends from claim 2 so that it does not depend from itself;
- claim 8 should either depend from claim 3 or 4 to provide proper antecedent basis for "the mounting fixture", or presumably, the frame includes a mounting fixture;
- claim 13 should either depend from claim 12 to provide proper antecedent basis for "the mounting fixture", or presumably, the frame includes a mounting fixture;
- claim 14 presumably depends from claim 10, since the claim would otherwise be a duplicate of claim 9; and
- claim 15, line 9, "rotatable" presumably should be changed to --rotatable--.

Appropriate correction is required.

6. Applicant is advised that should claims 2, 3, 10 and 12 be found allowable, claims 10 and 12 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to

object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

7. Claims 8 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 8 and 13 recite the limitation "the mounting fixture" in lines 3-4. There is insufficient antecedent basis for this limitation in the claims. Presumably, the claims should depend from claims 3 and 12 respectively. In such case, claim 13 would also be objected to under 37 CFR 1.75 as being a substantial duplicate thereof.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-5, 9, 10, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by *Shugg* (US Pat. 6,159,133). *Shugg* discloses an exercise system for use within a vehicle, comprising a vehicle having a passenger compartment including a seat. The vehicle may be a tractor trailer truck and the seat is a driver's seat mounted within the cab of the truck. The vehicle may also comprise a motor home. Inherently, the cab of a truck or the interior of a motor home has a floor which the seat is secured.

An exercise apparatus 10 is removably mounted to the seat. The seat, in turn is secured to the floor of the vehicle, thereby leading to the frame of the exercise device being secured to the floor. Exercise devices 54 are removably secured to the frame (Figs. 5 and 6). The exercise devices 54 comprise belts. The frame of the exercise device includes a pair of base members 19, a support leg 21 extending from each base member, and a crossbeam (can be 50 or member spanning top of support legs 21 in Fig. 2) that is connected to and extends between each support leg. Mounting fixtures 32,42,52 are positioned on the support legs and base members. Note that the claim limitations do not require that the base members contact or be directly secured to the floor. Each base member 19 has a flat bottom surface complementary to the shape of the floor of the vehicle. "Complimentary" does not means that the shape of the bottom surface coincides with the shape of the floor of the vehicle.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-5, 8, 10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Hanc* (Newsday, Fitness File, 11/22/99, pg. 13) in view of *Location Fitness* (website information with a heading date of May 12, 1999) and *Nathaniel* (US Pat. 5,013,035). *Hanc* discloses a vehicle comprising a mobile gym containing a variety of exercise equipment

including treadmills, stationary bikes, and multi-station gym equipment. The multi-station gym equipment includes a leg extension/leg curl unit. The vehicle inherently has a floor upon which the exercise equipment is supported. The exercise equipment comprising the stationary bike and the multi-station gym equipment inherently include seats for supporting a user. Providing mobile gym facilities is well known in the exercise art.

Hanc does not disclose the exercise equipment and seat secured to the floor of the vehicle (claims 1 and 10); the exercise apparatus including a frame comprising a pair of base members, as support leg extending from each base member, and a crossbeam that is connected to and extends between each support leg (claims 2 and 10); a mounting fixture positioned on a support leg (claims 3 and 12) or a base member (claim 4), the exercise device being removably secured to the mounting fixture; each base member having a bottom surface that is complementary to the shape of the floor of the vehicle (claim 5); and the exercise device includes a grip, an elastic cord and a clip, the grip and clip being secured together by the elastic cord and the clip being removably securable to a mounting fixture (claims 8 and 13).

Location Fitness discloses a mobile gym facility vehicle. The facility can be customized to any fitness equipment requirement or personalized training specification. Any specific equipment can be requested to be included.

Nathaniel discloses an exercise apparatus including a frame comprising a pair of base members 22,24, a support leg 12,14 extending from each base member, and a crossbeam 16 that is connected to and extends between each support leg. Mounting fixtures 36-43 are positioned on the support legs and base member 26. The exercise device includes a grip 57, an elastic cord 50 and a clip 53, the grip and clip being secured together by the elastic cord and the

clip being removably securable to one of the mounting fixtures. Each base member has a substantially flat bottom surface and is adapted for support on a horizontal floor surface. Inherently, the apparatus would be secured to the floor since it is designed to be supported on a horizontal floor. Fasteners are not required for an apparatus to be secure. The pair of base members are designed to secure the apparatus by providing a large footprint to minimize tipping. Additionally, the drawing of Fig. 5 shows apertures in the base member 24, which one of ordinary skill in the art would reasonably conclude to receive fasteners to further secure the apparatus to the floor. The exercise apparatus may be utilized by two individuals to perform simultaneous workouts in a minimum amount of space. The base members, support legs and crossbeam are designed to be disassembled expediently, and therefore, the support legs are considered to rotatable with respect to its base member and the crossbeam.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the mobile gym facility vehicle disclosed by *Hanc* with the exercise apparatus of *Nathaniel*, since *Location Fitness* discloses providing vehicles with exercise apparatus and that any exercise equipment can be part of a mobile gym facility configuration.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Hanc* (Newsday, Fitness File, 11/22/99, pg. 13) as modified by *Location Fitness* (website information with a heading date of May 12, 1999) and *Nathaniel* (US Pat. 5,013,035) as applied to claim 5 above, and further in view of *Jones* (US Pat. 5,171,198). *Hanc* as modified by *Location Fitness* and *Nathaniel* discloses the invention as claimed except for each base member including a flange

and a longitudinal axis, the flange extending from the base member perpendicular to the longitudinal axis of the base member.

Jones discloses an exercise apparatus comprising base members 21,22 having longitudinal axes and flanges 27-30 extending perpendicularly from each base member. The flanges provide support for the base members (col. 4, lines 45-48).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the base members of the exercise apparatus of *Hanc* as modified by *Location Fitness* and *Nathaniel* with flanges, in order to provide support for the base members, as taught by *Jones*.

13. Claims 7, 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Hanc* (Newsday, Fitness File, 11/22/99, pg. 13) as modified by *Location Fitness* (website information with a heading date of May 12, 1999) and *Nathaniel* (US Pat. 5,013,035) as applied to claims 2 and 10 above, and further in view of *Bushnell* (US Pat. 4,241,914). *Hanc* as modified by *Location Fitness* and *Nathaniel* discloses the invention as claimed except for the crossbeam including adjustment means such that the dimensions of the frame may be adjusted by a user (claims 11 and 15), the frame including a spring biased pin and plurality of apertures (claim 7). *Nathaniel* discloses that the dimensional relationships for the parts of the exercise apparatus, including variation in size are readily apparent and obvious (col. 5, lines 32-40).

Bushnell discloses an exercise apparatus having a frame comprising a pair of base members 12, a support leg extending from each base member, and crossbeams 11b that are

connected to and extend between each support leg. The frame is dimensionally adjustable to vary its size, wherein the crossbeams are adjustable in their lengths.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the frame of *Hanc* as modified by *Location Fitness* and *Nathaniel* with adjustable an adjustable crossbeam, since *Nathaniel* discloses that variation in size of the frame would have been obvious and because *Bushnell* discloses that the crossbeam of an exercise apparatus may readily be made adjustable to vary the dimensions of the frame as needed.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the adjustability of the crossbeam by a spring biased pin and plural apertures since the examiner takes Official Notice of the equivalence of the adjustable sleeve of *Bushnell* and spring biased pin and plural apertures for their use in the exercise art and the selection of any of these known equivalents to provide an adjustable length would be within the level of ordinary skill in the art.

14. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Hanc* (Newsday, Fitness File, 11/22/99, pg. 13) as modified by *Location Fitness* (website information with a heading date of May 12, 1999) and *Nathaniel* (US Pat. 5,013,035) as applied to claims 1 and 10 above, and further in view of *Shugg* (US Pat. 6,159,133). *Hanc* as modified by *Location Fitness* and *Nathaniel* disclose the invention as claimed except for the exercise device comprising a belt.

Shugg discloses an exercise apparatus wherein the exercise device comprises a belt 54 linking two handles 32. The belt permits additional exercise of the chest area of a user. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the exercise device of *Hanc* as modified by *Location Fitness* and *Nathaniel* with a belt, since *Shugg* discloses that a belt can be used to link two handles to provide added exercise to the forward movement of a user's chest.

Allowable Subject Matter

15. The following claims, drafted by the examiner and considered to distinguish patentably over the art of record in this application, are presented to applicant for consideration:

In the Claims:

A) Replace the claims with the following complete set of amended claims:

--1. (Currently Amended) An exercise system for use within a vehicle, comprising in combination:

a vehicle having a passenger compartment including a floor and a seat that is secured to the floor, and

an exercise apparatus including a frame and an elastic exercise device removably secured to the frame, the frame being secured to the floor of the vehicle and including a pair of base members, a support leg extending from each base member, and a crossbeam that is connected to and extends between each support leg, each support leg rotatable with respect to its base member and the crossbeam.

2. (Cancelled)

3. (Currently Amended) The exercise system of claim 3 2, further comprising a mounting fixture positioned on a ~~support leg~~ at least one of the support legs, the exercise device being removably secured to the mounting fixture.
4. (Currently Amended) The exercise system of claim 3, further comprising a mounting fixture positioned on a ~~base member~~ at least one of the base members, the exercise device being removably secured to the mounting fixture.
5. (Currently Amended) The exercise system of claim 1, wherein ~~said frame comprises a pair of base members~~, each base member having a bottom surface that is complementary to the shape of the floor of the vehicle.
6. (Currently Amended) The exercise system of claim 5, wherein each base member includes a flange and a longitudinal axis, the flange extending from the base member perpendicular to a the longitudinal axis.
7. (Currently Amended)) The exercise system of claim 2 1, wherein said frame includes a spring biased pin and a plurality of apertures, the apertures being selectively engageable by the pin such that the dimensions of the frame may be adjusted by the user.
8. (Currently Amended) The exercise system of claim 1, wherein said exercise device includes a grip, an elastic cord and a clip; the grip and clip being secured together by the elastic cord and the clip being removably securable to ~~the~~ a mounting fixture on the frame.
9. (Currently Amended) The exercise system of claim 1, wherein said exercise device further comprises a belt.

10. (Currently Amended) an exercise system for use within a vehicle, comprising in combination:

a vehicle having a passenger compartment including a floor and a seat that is secured to the floor, and

an exercise apparatus including a frame and an elastic exercise device removably secured to the frame, the frame being secured to the floor of the vehicle and including a pair of base members, a sleeve extending from each base member, a support leg extending from each ~~base member~~ sleeve, and a crossbeam that is connected to and extends between each support leg, each support leg rotatable with respect to its base member and the crossbeam.

11. (Original) The exercise system of claim 10, wherein the crossbeam includes adjustment means such that the dimensions of the frame may be adjusted by a user.

12. (Currently Amended) The exercise system of claim 10, further comprising a mounting fixture positioned on ~~a support leg~~ at least one of the support legs, the exercise device being removably secured to the mounting fixture.

13. (Currently Amended) The exercise system of claim 10, wherein said exercise device includes a grip, an elastic cord and a clip; the grip and clip being secured together by the elastic cord and the clip being removably securable to ~~the~~ a mounting fixture on the frame.

14. (Currently Amended) The exercise system of claim ~~1~~ 10, wherein said exercise device further comprises a belt.

15. (Currently Amended) An exercise system for use within a vehicle, comprising in combination:

a vehicle having a passenger compartment including a floor and a seat that is secured to the floor, and

an exercise apparatus including a frame and an elastic exercise device removably secured to the frame, the frame being secured to the floor of the vehicle and including a pair of base members, a sleeve extending from each base member, a support leg extending from each ~~base member~~ sleeve, and a crossbeam that is connected to and extends between each support leg, each support leg being ~~rotatable~~ rotatable with respect to its base member and the crossbeam, the crossbeam having adjustment means such that the dimensions of the frame may be modified by a user, and a mounting fixture positioned on ~~a support leg~~ at least one of the support legs, the exercise device being removably secured to the mounting fixture.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rosenthal (US Pat. 3,751,033), *Talucci* (US Pat. 5,667,267), *Keiser* (US Pat. Pub. 2002/0025890 A1), *Rich* (US Pat. 6,500,104 B1) and *Gelbart et al.* (US Pat. 6,692,414 B1) disclose exercise systems for use within vehicles.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence at this time is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang
February 17, 2005



GLENN E. RICHMAN
PRIMARY EXAMINER